

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTEUM COMPANY, LLC, a Washington
limited liability company,

Plaintiff,

v.

NATIONAL UNIVERSITY OF SINGAPORE, a
foreign non-profit entity,

Defendant.

No. 2:17-cv-01252-JCC

**DEFENDANT NATIONAL
UNIVERSITY OF SINGAPORE'S
ANSWER TO SECOND AMENDED
COMPLAINT AND AFFIRMATIVE
DEFENSES**

ANSWER

In answer to Plaintiff Inteum Company LLC's ("Plaintiff") Second Amended Complaint, Defendant National University of Singapore ("NUS") admits, denies, and alleges as follows:

I. INTRODUCTORY STATEMENT

1.1 NUS's Reply in Support of Motion for Judgment on the Pleadings speaks for itself. All remaining allegations in the paragraph are denied.

1.2 NUS's Motion for Judgment on the Pleadings speaks for itself. NUS admits that it obtained a copy of the Data Dictionary as was its right under the License Agreement and Confidentiality / Non Disclose Agreement ("NDA"). All remaining allegations in the paragraph are denied.

1.3 Denied.

1.4 NUS admits that Wellspring demonstrated its Sophia software to NUS prior to the publication of the RFP and that, in connection with that demonstration, NUS described some desired attributes for KMS software. NUS admits that, after evaluating all bids submitted in response to the tender, it awarded the contract to Wellspring. All remaining allegations in the paragraph are denied.

1.5 NUS admits that it has and continues to deny any irregularities in the tender process. All remaining allegations in the paragraph are denied.

1.6 Denied

II. PARTIES

2.1 Admitted.

2.2 Admitted.

III. JURISDICTION AND VENUE

3.1 NUS admits that Plaintiff originally filed this action in King County Superior Court. The relevant contracts speak for themselves. All remaining allegations in the paragraph state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

3.2 NUS admits that it removed the case to this Court on August 17, 2017. All other allegations in the paragraph state legal conclusions to which no response is required.

IV. FACTUAL BACKGROUND

4.1 NUS lacks sufficient information to admit or deny the allegations and, therefore, denies the allegations.

4.2 NUS lacks sufficient information to admit or deny the allegations and, therefore, denies the allegations.

4.3 NUS lacks sufficient information to admit or deny the allegations and, therefore, denies the allegations.

1 4.4 NUS admits that Plaintiff's software is used for the management of intellectual
2 property portfolios. Except as expressly admitted, NUS lacks sufficient information to admit or
3 deny the allegations contained in the paragraph and, therefore, denies the allegations.
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5 4.5 NUS lacks sufficient information to admit or deny the allegations and, therefore,
6 denies the allegations.
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8 4.6 The License Agreement and NDA between Plaintiff and NUS speak for
9 themselves. NUS denies that all companies operating in the intellectual property management
10 space recognize that the characteristics of relational databases described in Plaintiff's Second
11 Amended Complaint constitute valuable trade secrets. NUS lacks sufficient information to admit
12 or deny the remaining allegations in the paragraph and, therefore, denies the allegations.
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14 4.7 The License Agreement and NDA between Plaintiff and NUS speak for
15 themselves. The allegations concerning the scope of NUS's rights under these agreements state
16 legal conclusions to which no response is required. To the extent a response is required, the
17 allegations are denied. All remaining allegations in the paragraph are denied.
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19 4.8 Plaintiff's Data Dictionary speaks for itself. All remaining allegations in the
20 paragraph are denied.
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22 4.9 NUS's contracts with Plaintiff speak for themselves. The allegations concerning
23 NUS's contractual obligations state legal conclusions to which no response is required. To the
24 extent a response is required, the allegations are denied. All remaining allegations in the
25 paragraph are denied.
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27 4.10 Plaintiff's Data Dictionary speaks for itself. All remaining allegations in the
28 paragraph are denied.
29

30 4.11 NUS admits that the printed paper or electronic reports generated by Plaintiff's
31 software contained no information that could be considered Plaintiff's confidential information.
32 The allegations concerning Plaintiff's "consider[ation]" of the "underlying report definitions"
33 state opinions and legal conclusions to which no response is required. To the extent a response is
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1 required, the allegations are denied. The allegation that these definitions are trade secrets states a
2 legal conclusion to which no response is required. To the extent a response is required, the
3 allegation is denied. NUS lacks sufficient information to admit or deny the remaining
4 allegations in the paragraph and, therefore, denies the allegations.
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9 4.12 Plaintiff's License Agreement with NUS speaks for itself. The allegations state
10 legal conclusions and opinions to which no response is required. To the extent a response is
11 required, the allegations are denied.
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15 4.13 The allegations regarding what does or does not constitute a breach of the License
16 Agreement or NDA state legal conclusions to which no response is required. To the extent a
17 response is required, NUS admits that providing its data extracted from the Inteum database to a
18 competitor of Plaintiff is not a breach of the License Agreement or NDA. All remaining
19 allegations in the paragraph are denied.
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25 4.14 NUS denies the allegation that providing a copy of Inteum—or access to
26 Inteum—"would expose all of the proprietary trade secrets" discussed in the preceding
27 paragraphs of Plaintiff's Second Amended Complaint and allow a competitor to incorporate
28 those trade secrets into its own platform. NUS lacks sufficient information to admit or deny the
29 remaining allegations in the paragraph and, therefore, denies the allegations.
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35 4.15 NUS lacks sufficient information to admit or deny that it became a customer of
36 Plaintiff in 1996 and, therefore, denies the allegation. NUS admits that after becoming a
37 customer of Plaintiff, it licensed Plaintiff's software until 2016. All remaining allegations in the
38 paragraph are denied.
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43 4.16 Denied.
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45 4.17 Denied.
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47 4.18 The referenced documents speak for themselves. All remaining allegations in the
48 paragraph are denied.
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1 4.19 The referenced documents speak for themselves. All remaining allegations in the
2 paragraph are denied.
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4 4.20 NUS admits that it determined that a public tender was the appropriate
5 mechanism by which to obtain KMS software. NUS admits that Wellspring provided a
6 demonstration of its software to NUS personnel in December. All remaining allegations in the
7 paragraph are denied.
8
9

10 4.21 NUS admits that it published the RFP on January 28, 2016, on the GeBIZ
11 platform. NUS admits that it did not inform Plaintiff that intended to publish the RFP, or that it
12 had been in contact with Wellspring. All remaining allegations in the paragraph are denied.
13
14

15 4.22 NUS admits that the tender deadline was February 10, 2016, and that the tender
16 period was 14 days. NUS denies that the RFP was designed to prevent Plaintiff from submitting
17 a bid, and that the officials charged with responding to questions during the open tender were
18 unavailable during the tender period. NUS denies that preparing a response to the RFP within a
19 two week period was nearly impossible. NUS admits that Plaintiff submitted a bid to the RFP
20 ahead of the tender deadline. NUS lacks sufficient information to admit or deny the remaining
21 allegations in the paragraph and, therefore, denies the allegations.
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24 4.23 Mr. Sloman's January 30, 2016 email speaks for itself. NUS admits that Daniel
25 Leong informed Ziyang Zhang in early February that he had not received Mr. Sloman's email.
26 All remaining allegations in the paragraph are denied.
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29 4.24 The allegations in paragraph 4.24 fail to identify the document that the paragraph
30 purports to quote, and therefore NUS lacks sufficient information to admit or deny the
31 allegations regarding that document. NUS therefore denies those allegations. All remaining
32 allegations in the paragraph are denied.
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35 4.25 The allegations in paragraph 4.25 fail to identify the documents that the paragraph
36 purports to quote, and therefore NUS lacks sufficient information to admit or deny the
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1 allegations regarding those documents. NUS therefore denies those allegations. All remaining
2 allegations in the paragraph are denied.
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4 4.26 The allegations in paragraph 4.26 fail to identify the documents that the paragraph
5 purports to quote, and therefore NUS lacks sufficient information to admit or deny the
6 allegations regarding those documents. NUS therefore denies those allegations. All remaining
7 allegations in the paragraph are denied.
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10 4.27 The referenced documents speak for themselves. All remaining allegations in the
11 paragraph are denied.
12

13 4.28 NUS admits that Knowledge Sharing Systems and Content Concepts requested
14 extensions to the tender deadline. NUS admits that it determined that it was not possible to grant
15 an extension to the tender deadline and, therefore, declined to do so. All remaining allegations in
16 the paragraph are denied.
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18 4.29 NUS admits that Wellspring submitted its bid in response to the RFP ahead of the
19 tender deadline. Except as expressly admitted, all allegations in the paragraph are denied.
20

21 4.30 NUS denies that it attempted to surreptitiously access Plaintiff's servers or its
22 Data Dictionary. NUS lacks sufficient information to admit or deny the remaining allegations in
23 the paragraph and, therefore, denies the allegations.
24

25 4.31 Denied.
26

27 4.32 The RFP speaks for itself. All remaining allegations in the paragraph are denied.
28

29 4.33 NUS's Tender Memorandum and Evaluation Report speaks for itself. All
30 remaining allegations in the paragraph are denied.
31

32 4.34 NUS admits that, on March 31, 2016, it awarded the contract to Wellspring. The
33 Tender Memorandum and RFP speak for themselves. NUS admits that Wellspring was the only
34 company to submit a bid below SG \$300,000 for the first year of the contract. NUS lacks
35 sufficient information to admit or deny whether Plaintiff was ever informed of a budget limit for
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1 the first year of the contract and, therefore, denies the allegation. All remaining allegations in
2 the paragraph are denied.
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4 4.35 The referenced documents speak for themselves. All remaining allegations in the
5 paragraph are denied.
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7 4.36 To the extent the allegations in this paragraph purport to describe the
8 requirements of Singapore law, they state a legal conclusion to which to which no response is
9 required. To the extent a response is required, the allegations are denied. NUS admits that it ran
10 a full open competition, and has asserted that in response to Plaintiff's baseless complaints.
11 NUS admits that Wellspring provided NUS marketing and pricing information regarding its
12 software, and NUS provided information regarding one of its own internal policies to
13 Wellspring, prior to the publication of the RFP. All remaining allegations in the paragraph are
14 denied.
15

16 4.37 NUS admits that it investigated Mr. Sloman's complaints. NUS admits that, on
17 February 25, 2016, it completed a report regarding this investigation, and provided this report to
18 Singapore's Ministry of Finance. The report speaks for itself. All remaining allegations in the
19 paragraph are denied.
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21 4.38 The report speaks for itself. NUS admits that Plaintiff, Knowledge Sharing
22 Systems, and Content Concepts requested extensions to the tender deadline. All remaining
23 allegations in the paragraph are denied.
24

25 4.39 The allegations in paragraph 4.39 fail to identify the documents that the paragraph
26 purports to quote, and therefore NUS lacks sufficient information to admit or deny the
27 allegations regarding those documents. NUS therefore denies those allegations. All remaining
28 allegations in the paragraph are denied.
29

30 4.40 NUS admits that it has produced documents in discovery in this case. All
31 remaining allegations in the paragraph are denied.
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1 4.41 NUS admits that Knowledge Sharing Systems responded to the RFP. The
2 document titled “Tech Questions to KSS” speaks for itself. All remaining allegations in the
3 paragraph are denied.
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6 4.42 The allegations in paragraph 4.42 fail to identify the documents that the paragraph
7 purports to quote, and therefore NUS lacks sufficient information to admit or deny the
8 allegations regarding those documents. NUS therefore denies those allegations.
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11 4.43 The referenced document speaks for itself. All remaining allegations in the
12 paragraph are denied.
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15 4.44 The allegations in paragraph 4.44 fail to identify the documents that the paragraph
16 purports to quote, and therefore NUS lacks sufficient information to admit or deny the
17 allegations regarding those documents. NUS therefore denies those allegations. All remaining
18 allegations in the paragraph are denied.
19

20
21 4.45 NUS admits that it obtained a copy of the Data Dictionary as was its right under
22 the License Agreement and NDA. The Data Dictionary speaks for itself. All remaining
23 allegations in the paragraph are denied.
24

25 4.46 The allegations in paragraph 4.46 fail to identify the documents that the paragraph
26 purports to quote, and therefore NUS lacks sufficient information to admit or deny the
27 allegations regarding those documents. NUS therefore denies those allegations. NUS denies
28 that it shared Plaintiff’s trade secrets with Wellspring, or provided Wellspring with access to
29 Inteum. All remaining allegations in the paragraph are denied.
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31 4.47 Wellspring’s response to the RFP speaks for itself. All remaining allegations in
32 the paragraph are denied.
33

34 4.48 Denied.
35

36 4.49 NUS admits that Plaintiff communicated with NUS during and after the tender
37 process, asserting baseless complaints in a cynical campaign of harassment and intimidation.
38 Except as expressly admitted, all allegations in the paragraph are denied.
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1 **V. FIRST CAUSE OF ACTION: BREACH OF CONTRACT**

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3 5.1 NUS restates and incorporates by reference its answers in the preceding
4 paragraphs.

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6 5.2 Denied.

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8 5.3 Denied.

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10 **VI. SECOND CAUSE OF ACTION: MISAPPROPRIATION OF TRADE SECRETS**

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12 6.1 NUS restates and incorporates by reference its answers in the preceding
13 paragraphs.

14
15 6.2 Denied.

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17 6.3 Denied.

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19 6.4 Denied.

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21 **VII. PRAYER FOR RELIEF**

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23 In answer to Paragraphs (a) through (g) of Plaintiff's Prayer for Relief, NUS denies the
24 allegations and denies that Plaintiff is entitled to the requested relief.

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26 **VIII. AFFIRMATIVE DEFENSES**

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28 Defendant further responds to Plaintiff's Complaint by alleging the following affirmative
29 defenses:

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31 7.1 The Complaint fails to state a claim upon which relief can be granted against
32 NUS.

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34 7.2 Plaintiff lacks standing to assert any claims relating to alleged failure to follow a
35 required or appropriate procurement process.

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37 7.3. Plaintiff has no trade secret or other proprietary interest in NUS data, in NUS
38 reports containing its data, or in commonly known methods of organizing data.

39
40 7.4. Plaintiff's claims are barred by the provisions of the contracts at issue in this
41 action, which confer rights on NUS over its own data and its access to that data.

1 7.5 Plaintiff has failed to take reasonable steps to preserve the secrecy of its alleged
2 trade secret information.
3

4 7.6 Plaintiff's claim for equitable relief should be denied, as it has an adequate
5 remedy at law and unclean hands.
6

7 7.7. Plaintiff's damages, if any, arise out of its own conduct.
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9 7.8. Plaintiff has failed to mitigate its damages.
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11 7.9 Plaintiff's claims are barred by the defenses of estoppel, waiver, laches, unclean
12 hands, ratification and/or acquiescence, and consent.
13

14 7.10. Plaintiff has asserted a misappropriation of trade secret claim in bad faith, as part
15 of a cynical and baseless campaign of harassment and intimidation of a former customer.
16

17 7.11 NUS reserves the right to assert any additional affirmative defenses as may be
18 warranted by further discovery in this action
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20 **IX. REQUEST FOR RELIEF**

21 NUS requests the following relief:
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23 A. That judgment be entered in NUS's favor on all claims asserted by Plaintiff
24 herein;
25

26 B. That NUS recover from Plaintiff all costs and reasonable attorneys' fees incurred
27 in this matter, as authorized by statute in light of Plaintiff's bad faith assertion of its trade secret
28 misappropriation claim; and
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30 C. Such other relief as the Court may deem just and proper.
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2 DATED this 12th day of June, 2018.
3

s/ Joseph M. McMillan, WSBA No. 26527

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CERTIFICATE OF SERVICE

I certify that on June 12, 2018, I served the foregoing on the following attorney(s) of record of record by the method(s) indicated:

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___ Via U.S. Mail, 1st Class, Postage Prepaid
___ Via Hand Delivery
___ Via Overnight Delivery
___ Via Facsimile
___ Via Email
XX Via ECF

I certify under penalty of perjury that the foregoing is true and correct.

DATED this 12th day of June, 2018.

s/ Joseph M. McMillan

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